

analysis and to begin the public notice procedure, as set forth in this subpart.

**§ 161.407 Notice of reevaluation.**

(a) After receiving an FAA determination that a reevaluation is justified, an aircraft operator desiring continuation of the reevaluation process shall publish a notice of request for reevaluation in an areawide newspaper or newspapers that either singly or together has general circulation throughout the airport noise study area (or the airport vicinity for agreements where an airport noise study area has not been delineated); post a notice in the airport in a prominent location accessible to airport users and the public; and directly notify in writing the following parties:

(1) The airport operator, other aircraft operators providing scheduled passenger or cargo service at the airport, operators of aircraft based at the airport, potential new entrants that are known to be interested in serving the airport, and aircraft operators known to be routinely providing non-scheduled service;

(2) The Federal Aviation Administration;

(3) Each Federal, State, and local agency with land-use control jurisdiction within the airport noise study area (or the airport vicinity for agreements where an airport noise study area has not been delineated);

(4) Fixed-base operators and other airport tenants whose operations may be affected by the agreement or the restriction;

(5) Community groups and business organizations that are known to be interested in the restriction; and

(6) Any other party that commented on the original restriction.

(b) Each notice provided in accordance with paragraph (a) of this section shall include:

(1) The name of the airport and associated cities and states;

(2) A clear, concise description of the restriction, including whether the restriction was approved by the FAA or agreed to by the airport operator and aircraft operators, and the date of the approval or agreement;

(3) The name of the aircraft operator requesting a reevaluation, and a state-

ment that a reevaluation has been requested and that the FAA has determined that a reevaluation is justified;

(4) A brief discussion of the reasons why a reevaluation is justified;

(5) An analysis prepared in accordance with §161.409 of this part supporting the aircraft operator's reevaluation request, or an announcement of where the analysis is available for public inspection;

(6) An invitation to comment on the analysis supporting the proposed reevaluation, with a minimum 45-day comment period;

(7) Information on how to request a copy of the analysis (if not in the notice); and

(8) The address for submitting comments to the aircraft operator, including identification of a contact person.

**§ 161.409 Required analysis by reevaluation petitioner.**

(a) An aircraft operator that has petitioned the FAA to reevaluate a restriction shall assume the burden of analysis for the reevaluation.

(b) The aircraft operator's analysis shall be made available for public review under the procedures in §161.407 and shall include the following:

(1) A copy of the restriction or the language of the agreement as incorporated in a local ordinance, airport rule, lease, or other document;

(2) The aircraft operator's status under the restriction (e.g., currently affected operator, potential new entrant) and an explanation of the aircraft operator's specific objection to the restriction;

(3) The quantified change in the noise environment using methodology specified in this part;

(4) Evidence of the relationship between this change and the likelihood that the restriction does not meet one or more of the conditions in §161.305; and

(5) Sufficient data and analysis selected from §161.305, as applicable to the restriction at issue, to support the contention made in paragraph (b)(4) of this section. This is to include either an adequate environmental assessment of the impacts of discontinuing all or part of a restriction in accordance with

the aircraft operator's petition, or adequate information supporting a categorical exclusion under FAA orders implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

(c) The amount of analysis may vary with the complexity of the restriction, the number and nature of the conditions in §161.305 that are alleged to be unsupported, and the amount of previous analysis developed in support of the restriction. The aircraft operator may incorporate analysis previously developed in support of the restriction, including previous environmental documentation to the extent applicable. The applicant is responsible for providing substantial evidence, as described in §161.305, that one or more of the conditions are not supported.

**§ 161.411 Comment by interested parties.**

(a) Each aircraft operator requesting a reevaluation shall establish a docket or similar method for receiving and considering comments and shall make comments available for inspection to interested parties specified in paragraph (b) of this section upon request. Comments must be retained for two years.

(b) Each aircraft operator shall promptly notify interested parties if it makes a substantial change in its analysis that affects either the costs or benefits analyzed, or the criteria in §161.305, differently from the analysis made available for comment in accordance with §161.407. Interested parties include those who received direct notice under paragraph (a) of §161.407 and those who have commented on the reevaluation. If an aircraft operator revises its analysis, it shall make the revised analysis available to an interested party upon request and shall extend the comment period at least 45 days from the date the revised analysis is made available.

**§ 161.413 Reevaluation procedure.**

(a) Each aircraft operator requesting a reevaluation shall submit to the FAA:

- (1) The analysis described in §161.409;
- (2) Evidence that the public review process was carried out in accordance

with §§161.407 and 161.411, including the aircraft operator's summary of the comments received; and

(3) A request that the FAA complete a reevaluation of the restriction and issue findings.

(b) Following confirmation by the FAA that the aircraft operator's documentation is complete according to the requirements of this subpart, the FAA will publish a notice of reevaluation in the FEDERAL REGISTER and provide for a 45-day comment period during which interested parties may submit comments to the FAA. The FAA will specifically solicit comments from the affected airport operator and affected local governments. A submission that is not complete will be returned to the aircraft operator with a letter indicating the deficiency, and no notice will be published. No further action will be taken by the FAA until a complete submission is received.

(c) The FAA will review all submitted documentation and comments pursuant to the conditions of §161.305. To the extent necessary, the FAA may request additional information from the aircraft operator, airport operator, and others known to have information material to the reevaluation, and may convene an informal meeting to gather facts relevant to a reevaluation finding.

**§ 161.415 Reevaluation action.**

(a) Upon completing the reevaluation, the FAA will issue appropriate orders regarding whether or not there is substantial evidence that the restriction meets the criteria in §161.305 of this part.

(b) If the FAA's reevaluation confirms that the restriction meets the criteria, the restriction may remain as previously agreed to or approved. If the FAA's reevaluation concludes that the restriction does not meet the criteria, the FAA will withdraw a previous approval of the restriction issued under subpart D of this part to the extent necessary to bring the restriction into compliance with this part or, with respect to a restriction agreed to under subpart B of this part, the FAA will specify which criteria are not met.